

1-1 By: Wray (Senate Sponsor - Taylor of Galveston) H.B. No. 1128  
 1-2 (In the Senate - Received from the House April 18, 2017;  
 1-3 April 24, 2017, read first time and referred to Committee on  
 1-4 Business & Commerce; May 3, 2017, reported favorably by the  
 1-5 following vote: Yeas 8, Nays 0; May 3, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15			X	
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the date and time for the public sale of real property.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. The heading to Section 34.041, Civil Practice  
 1-22 and Remedies Code, is amended to read as follows:

1-23 Sec. 34.041. SALE AT PLACE OTHER THAN COURTHOUSE DOOR; DATE  
 1-24 AND TIME OF SALE.

1-25 SECTION 2. Section 34.041, Civil Practice and Remedies  
 1-26 Code, is amended by adding Subsection (c) to read as follows:

1-27 (c) A sale of real property under this subchapter must take  
 1-28 place between 10 a.m. and 4 p.m. on the first Tuesday of a month or,  
 1-29 if the first Tuesday of a month occurs on January 1 or July 4,  
 1-30 between 10 a.m. and 4 p.m. on the first Wednesday of the month.  
 1-31 Notwithstanding Section 22.004, Government Code, the supreme court  
 1-32 may not amend or adopt rules in conflict with this subsection.

1-33 SECTION 3. Sections 51.002, Property Code, is amended by  
 1-34 amending Subsection (a) and adding Subsection (a-1) to read as  
 1-35 follows:

1-36 (a) Except as provided by Subsection (a-1), a [A] sale of  
 1-37 real property under a power of sale conferred by a deed of trust or  
 1-38 other contract lien must be a public sale at auction held between 10  
 1-39 a.m. and 4 p.m. of the first Tuesday of a month. Except as provided  
 1-40 by Subsection (h), the sale must take place at the county courthouse  
 1-41 in the county in which the land is located, or if the property is  
 1-42 located in more than one county, the sale may be made at the  
 1-43 courthouse in any county in which the property is located. The  
 1-44 commissioners court shall designate the area at the courthouse  
 1-45 where the sales are to take place and shall record the designation  
 1-46 in the real property records of the county. The sale must occur in  
 1-47 the designated area. If no area is designated by the commissioners  
 1-48 court, the notice of sale must designate the area where the sale  
 1-49 covered by that notice is to take place, and the sale must occur in  
 1-50 that area.

1-51 (a-1) If the first Tuesday of a month occurs on January 1 or  
 1-52 July 4, a public sale under Subsection (a) must be held between 10  
 1-53 a.m. and 4 p.m. on the first Wednesday of the month.

1-54 SECTION 4. Section 34.01, Tax Code, is amended by adding  
 1-55 Subsection (r-1) to read as follows:

1-56 (r-1) A sale of real property under this section, including  
 1-57 a sale conducted by means of a public auction using online bidding  
 1-58 and sale under Subsection (a-1), must take place between 10 a.m. and  
 1-59 4 p.m. on the first Tuesday of a month or, if the first Tuesday of a  
 1-60 month occurs on January 1 or July 4, between 10 a.m. and 4 p.m. on  
 1-61 the first Wednesday of the month.

2-1 SECTION 5. Section 34.07(f), Tax Code, is amended to read as  
2-2 follows:

2-3 (f) A suit filed against the taxing units under Subsection  
2-4 (d) may not be maintained unless the action is instituted before the  
2-5 first anniversary of the date of sale or resale. In this subsection:

2-6 (1) "Date of sale" means the date [~~first Tuesday of the~~  
2-7 ~~month~~] on which the sheriff or constable conducted the sale of the  
2-8 property under Section 34.01.

2-9 (2) "Date of resale" means the date on which the  
2-10 grantor's acknowledgment was taken or, in the case of multiple  
2-11 grantors, the latest date of acknowledgment by the grantors as  
2-12 shown in the deed.

2-13 SECTION 6. The changes in law made by this Act apply only to  
2-14 the sale of real property under Subchapter C, Chapter 34, Civil  
2-15 Practice and Remedies Code, Section 51.002, Property Code, or  
2-16 Section 34.01, Tax Code, for which notice is given on or after the  
2-17 effective date of this Act.

2-18 SECTION 7. This Act takes effect immediately if it receives  
2-19 a vote of two-thirds of all the members elected to each house, as  
2-20 provided by Section 39, Article III, Texas Constitution. If this  
2-21 Act does not receive the vote necessary for immediate effect, this  
2-22 Act takes effect September 1, 2017.

2-23

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